

# HOUSE BILL 1010

E3, E2

0lr0623

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By: **Delegates Conaway, Vallario, Anderson, Dumais, Glenn, Kelly, Ramirez,  
~~and Robinson~~ **Robinson, and Carter****

Introduced and read first time: February 15, 2010

Assigned to: Judiciary

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 9, 2010

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Juvenile Law – Transfer of Case at Sentencing – Expungement of Criminal**  
3 **Charge**

4 FOR the purpose of establishing that, if a court exercising criminal jurisdiction in a  
5 case involving a child transfers its jurisdiction to the juvenile court at  
6 sentencing under a certain provision of law, the court shall enter a written  
7 order transferring its jurisdiction and ordering that the child be subject to the  
8 jurisdiction and procedures of the juvenile court; repealing a provision  
9 concerning the transfer of a certain record to the juvenile court; authorizing the  
10 Court of Appeals to adopt certain rules; authorizing a person to file, and  
11 requiring a court to grant, a petition for expungement of a criminal charge  
12 transferred to the juvenile court under a certain provision of law and all court  
13 and police records related to that charge; repealing a certain obsolete definition;  
14 making a certain clarifying change; and generally relating to the transfer of  
15 certain cases to the juvenile court at sentencing and the expungement of certain  
16 criminal charges.

17 BY repealing and reenacting, with amendments,  
18 Article – Criminal Procedure  
19 Section 4–202.2 and 10–106  
20 Annotated Code of Maryland  
21 (2008 Replacement Volume and 2009 Supplement)

22 BY repealing and reenacting, without amendments,

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Article – Criminal Procedure  
2 Section 10–101(c) and (h)  
3 Annotated Code of Maryland  
4 (2008 Replacement Volume and 2009 Supplement)

5 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
6 MARYLAND, That the Laws of Maryland read as follows:

7 **Article – Criminal Procedure**

8 4–202.2.

9 (a) At sentencing, a court exercising criminal jurisdiction in a case involving  
10 a child shall determine whether to transfer jurisdiction to the juvenile court if:

11 (1) as a result of trial or a plea entered under Maryland Rule 4–242,  
12 all charges that excluded jurisdiction from the juvenile court under § 3–8A–03(d)(1) or  
13 (4) of the Courts Article do not result in a finding of guilty; and

14 (2) (i) pretrial transfer was prohibited under § 4–202(c)(3) of this  
15 subtitle; or

16 (ii) the court did not transfer jurisdiction after a hearing under  
17 § 4–202(b) of this subtitle.

18 (b) In determining whether to transfer jurisdiction under subsection (a) of  
19 this section, the court shall consider:

20 (1) the age of the child;

21 (2) the mental and physical condition of the child;

22 (3) the amenability of the child to treatment in an institution, facility,  
23 or program available to delinquent children;

24 (4) the nature of the child’s acts as proven in the trial or admitted to in  
25 a plea entered under Maryland Rule 4–242; and

26 (5) public safety.

27 (c) The court may not consider transferring jurisdiction to the juvenile court  
28 under this section if:

29 (1) under the terms of a plea agreement entered under Maryland Rule  
30 4–243, the child agrees that jurisdiction is not to be transferred; or

1 (2) pretrial transfer was prohibited under § 4–202(c)(1) or (2) of this  
2 subtitle.

3 (d) (1) A victim or victim’s representative shall be given notice of the  
4 transfer hearing as provided under § 11–104 of this article.

5 (2) (i) A victim or victim’s representative may submit a victim  
6 impact statement to the court as provided in § 11–402 of this article.

7 (ii) This paragraph does not preclude a victim or victim’s  
8 representative who has not filed a notification request form under § 11–104 of this  
9 article from submitting a victim impact statement to the court.

10 (iii) The court shall consider a victim impact statement in  
11 determining whether to transfer jurisdiction under this section.

12 (e) [(1)] If the court transfers its jurisdiction to the juvenile court[.]:

13 (1) **THE COURT SHALL ENTER A WRITTEN ORDER TRANSFERRING**  
14 **ITS JURISDICTION AND ORDERING THAT THE CHILD BE SUBJECT TO THE**  
15 **JURISDICTION AND PROCEDURES OF THE JUVENILE COURT;**

16 (2) the **JUVENILE** court shall conduct a disposition under the regular  
17 procedures of the juvenile court[.]; **AND**

18 [(2) The record of the hearing and of the disposition shall be  
19 transferred to the juvenile court, subject to § 3–8A–27 of the Courts Article.]

20 (3) **THE COURT OF APPEALS MAY ADOPT RULES TO IMPLEMENT**  
21 **THE PROVISIONS OF THIS SUBSECTION.**

22 10–101.

23 (c) (1) “Court record” means an official record of a court that the clerk of a  
24 court or other court personnel keeps about:

25 (i) a criminal proceeding; or

26 (ii) any other proceeding, except a juvenile proceeding,  
27 concerning a civil offense or infraction enacted under State or local law as a substitute  
28 for a criminal charge.

29 (2) “Court record” includes:

30 (i) a record of a violation of the Transportation Article for which  
31 a term of imprisonment may be imposed; and

1 (ii) an index, docket entry, charging document, pleading,  
2 memorandum, transcription of proceedings, electronic recording, order, and judgment.

3 (h) “Police record” means an official record that a law enforcement unit,  
4 booking facility, or the Central Repository maintains about the arrest and detention  
5 of, or further proceeding against, a person for:

6 (1) a criminal charge;

7 (2) a suspected violation of a criminal law;

8 (3) a violation of the Transportation Article for which a term of  
9 imprisonment may be imposed; or

10 (4) a civil offense or infraction, except a juvenile offense, enacted  
11 under State or local law as a substitute for a criminal charge.

12 10–106.

13 [(a) In this section, “delinquency petition” means a petition filed under §  
14 3–8A–10 of the Courts Article alleging that a child is a delinquent child.

15 (b)] A person may file, and a court shall grant, a petition for expungement of  
16 a criminal charge transferred to the juvenile court under § 4–202 **OR § 4–202.2** of this  
17 article **AND ALL COURT RECORDS AND POLICE RECORDS RELATED TO THAT**  
18 **CHARGE.**

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
20 October 1, 2010.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.